

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

CHRISTOPHER GONZALEZ,

Case No. 24-cv-3740 (LMP/LIB)

Petitioner,

v.

B. EISCHEN,

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

Respondent.

This matter is before the Court on the October 17, 2024 Report and Recommendation (“R&R”) of United States Magistrate Judge Leo I. Brisbois, *see* ECF No. 5, which recommends dismissing Petitioner Christopher Gonzalez’s (“Gonzalez”) petition for a writ of habeas corpus. No party timely objected to the R&R, *see* Fed. R. Civ. P. 72(b)(2), so the Court reviews the R&R for clear error, *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam).

Gonzalez contends that the Federal Bureau of Prisons wrongfully failed to award him time credits earned under the First Step Act of 2018 (“FSA”). ECF No. 1 at 1. Although the FSA provides circumstances under which time credits may be earned and applied to shorten a prisoner’s sentence, *see* 18 U.S.C. § 3632(d)(4), the FSA unambiguously excludes prisoners convicted of certain offenses from receiving time credits, *see* 18 U.S.C. § 3632(d)(4)(D).

Here, Gonzalez pleaded guilty to, and was sentenced for, a Controlled Substances Act violation under 21 U.S.C. § 841(b)(1)(B)(vi): drug offenses involving “40 grams or

more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide,” which is more commonly known as fentanyl. *See United States v. Gonzalez*, No. 20-cr-651-2 (JJT), ECF Nos. 87, 97 (N.D. Ill. 2022). Individuals convicted of violating 21 U.S.C. § 841(b)(1)(B)(vi), like Gonzalez, are unambiguously excluded from receiving time credits under the FSA. 18 U.S.C. § 3632(d)(4)(D)(lxvi). As such, the Court discerns no clear error in the R&R and adopts it in full.

ORDER

Based upon all the files, records, and proceedings in this matter, **IT IS HEREBY ORDERED THAT:**

1. The Report and Recommendation (ECF No. 5) is **ADOPTED IN FULL**.
2. The Complaint (ECF No. 1) is **DISMISSED WITHOUT PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: November 25, 2024

s/Laura M. Provinzino
Laura M. Provinzino
United States District Judge